

UNITED STATES BANKRUPTCY COURT

DISTRICT OF MINNESOTA

In Re:

Case No. 04-61116-DDO
Chapter 7

Marilyn Rankila
Gerald Rankila,

Debtor(s)

**NOTICE OF HEARING AND MOTION
FOR RELIEF FROM STAY**

TO: The Debtor(s) and other entities specified in Local Rule 9013-3(a).

1. Mortgage Electronic Registration Systems, Inc. moves the Court for relief requested below and gives Notice of Hearing.
2. The Court will hold a Hearing on this motion at 1:00 p.m., on October 26, 2004, in Courtroom No. 2, at the United States Courthouse, at 118 South Mill Street, Fergus Falls, Minnesota.
3. Any response to this motion must be filed and delivered no later than October 21, 2004, which is three days before the time set for the hearing(excluding Saturdays, Sundays, or holidays), or filed and served by mail no later than October 15, 2004 which is seven days before the time set for the hearing(excluding Saturdays, Sundays, or holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on September 21, 2004. The case is now pending in this court.
5. This Motion arises under 11 U.S.C. §362 and Bankruptcy Rule 4001. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 - 9019-1(d). Movant Requests Relief with respect to exempt property of the debtor subject to a lien.
6. By mortgage dated June 19, 2003, in the original principal amount of \$58,900.00 (the "Mortgage"), which mortgage was subsequently assigned by Document No. 203398, Movant acquired a first mortgage's interest in the following real property (the "Property"), to-wit:

Lots 1 and 2, Block 1, Berg's Subdivision of part of Lots 23 and 24, Pleasant View Addition to Wadena, Wadena County, Minnesota

The Mortgage was filed in the offices of the Recorder, for Wadena County, Minnesota on July 11, 2003, as Document No. 203398. A copy of the Mortgage is attached hereto as Exhibit A.

Debtors have listed in their filed Bankruptcy schedules that their intent is to surrender said property,

7. The last payment received from Debtors was applied to the June, 2004 payment as that was the next payment due. Debtor(s) are delinquent under the terms of the note secured by the Mortgage with respect to monthly payments due as follows:

4 payments @ \$538.37	\$2,153.48
4 late charges @ \$22.64	\$90.56
Accrued late charges	\$22.64
Attorneys Fees & Cost	\$1,185.00
TOTAL	\$3,451.68

The outstanding principal balance due Movant under the terms of the note is \$58,493.31 as of October 1, 2004, and interest accrues at the rate of 8.50% per diem per day. The amount therefore due and owing on said note is as follows:

Principal Balance	\$58,493.31
Late charges	\$113.20
Interest	\$1,601.96
Attorneys Fees & Costs	\$1,185.00
TOTAL	\$61,393.47

8. Movant does not have, and has not been offered, adequate protection of its interest in the Property. In view of the fact that this is a Chapter 7 liquidation proceeding, the Property is not necessary for an effective reorganization. Moreover, Debtor(s) failure to make payments to Movant when due, or otherwise provide Movant with adequate protection of its interest in the Property constitutes cause, within the meaning of 11 U.S.C. Sec. 362(d)(1), entitling Movant to relief from the automatic stay.

9. If testimony is necessary as to any facts relevant to this motion, Nancy A. Nordmeyer, 7300 Metro Boulevard #390, Edina, MN, will testify on behalf of Movant.

10. **This is an attempt to collect a debt and any information obtained will be used for that purpose.** This notice is required by the provisions of the Fair Debt Collection Practices Act and does not imply that we are attempting to collect money from anyone who has discharged the debt under the Bankruptcy Laws of the United States.

WHEREFORE, Movant, respectfully moves the Court for an Order modifying the automatic stay of Sec. 362(a) so as to permit Movant to foreclose its Mortgage on the Property and for such other relief as may be just and equitable.

Dated: 10.8.04

Signed: /s/ NANCY A. NORDMEYER

SHAPIRO & NORDMEYER, L.L.P.
Nancy A. Nordmeyer-121356
Lawrence P. Zielke-152559
Attorney for movant
7300 Metro Boulevard #390
Edina, MN 55439-2306
(952) 831-4060

VERIFICATION

I, Dan Arntsen, the Bankruptcy Manager for Fidelity National Foreclosure Solutions, the authorized servicer for movant, the movant named in the foregoing notice of hearing and motion, declare under penalty of perjury, that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on:

10.6.04

Signed:

[Signature]

Fidelity National Foreclosure Solutions
1270 Northland Drive, Suite 200
Mendota Heights, MN 55120

203398

RETURN TO:
K & M TITLE CO.
5405 SHERIDAN ROAD SUITE 101
KENOSHA, WI 53140

Prepared by and When Recorded Return To:
SARAH SHAUGHNESSY
PARAGON HOME LENDING, LLC
19435 W. CAPITOL DRIVE, #201
BROOKFIELD, WI 53005
PARCEL NO. 22.400.0010

-----[Space Above This Line For Recording Data]-----

LOAN NO. BC70845

MORTGAGE

20556

DEFINITIONS

MIN 100200700000040650

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated JUNE 19, 2003, together with all Riders to this document.

(B) "Borrower" is
MARILYN J. RANKILA AND GERALD G. RANKILA, WIFE AND HUSBAND

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is

GSF MORTGAGE CORPORATION

Lender is a

DELAWARE

19435 W. CAPITOL DRIVE 100

BROOKFIELD, WI 53005

(E) "Note" means the promissory note signed by Borrower and dated JUNE 19, 2003
The Note states that Borrower owes Lender

FIFTY EIGHT THOUSAND NINE HUNDRED AND 00/100

Dollars (U.S. \$ 58,900.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than

JULY 1, 2033

MINNESOTA - Single Family - Fannie Mae/Freddie Mac 171(P) FORM INSTRUMENT WITH MERS Form 3024 (01/01)

UNITED STATES BANKRUPTCY COURT

DISTRICT OF MINNESOTA

In Re:

Case Number BKY 04-61116-DDO
Chapter 7

Marilyn Rankila
Gerald Rankila,

Debtor(s)

MEMORANDUM OF LAW

Mortgage Electronic Registration Systems, Inc. ("Movant"), submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

Movant holds a valid, duly perfected mortgage on real property owned by the Debtors. On the date this case was filed, the Debtor(s) were delinquent in respect of payments due under the note and mortgage. Since this case was filed, Debtor(s) are in arrears in the total amount of \$3,451.68.

ARGUMENT

1. Under Section 362.(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in property of such creditor." 11 U.S.C. Sec. 362 (d) (1). The Debtor(s) in this case have failed to make the payments required by the note and mortgage for a period of more than 3 months. Debtor(s) have not otherwise provided Movant with adequate protection of its interest in the property. Such circumstances constitute cause, within the meaning of Section 362 (d) (1), justifying relief from the stay. In Re Video East, Inc., 41 B. R. 176 (Bkrcty. E. D. Pa. 1984); In Re Frascatore, 33 B. R. 687 (Bkrcty. E. D. Pa. 1983).

2. Pursuant to Section 362 (d) (2) of the Bankruptcy Code, relief from the stay is also appropriate where Debtor(s) have no equity in the subject property and the property is not necessary to an effective reorganization. 11 U.S.C. Sec. 362 (d) (2). See, In Re Gellert, 55B.R. 970 (Bkrcty. D. N. H. 1983). In the present case the balance due Movant on the note and mortgage is \$61,393.47.

Accordingly, Movant is entitled to an order terminating the stay and authorizing it to foreclose its mortgage on the property.

Dated: _____

p. f. a.

Respectfully submitted,
SHAPIRO & NORDMEYER, L.L.P.

Signed: /e/ NANCY A. NORDMEYER
Nancy A. Nordmeyer-121356
Lawrence P. Zielke-152559
Attorney for Movant
7300 Metro Boulevard #390
Edina, MN 55439-2306
(952) 831-4060

SWORN CERTIFICATE OF SERVICE

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

I, **Stephanie Pilegaard** says that on October 8, 2004, I mailed copies of the annexed Memorandum of Law, Proposed Order for Relief from Stay, Notice of Hearing and Motion for Relief from Stay and Certificate of Service on the following interested parties at their last known address, by mailing to them, via first class mail, a copy thereof, enclosed in an envelope, postage prepaid and by depositing the same in the post office at Edina, Minnesota.

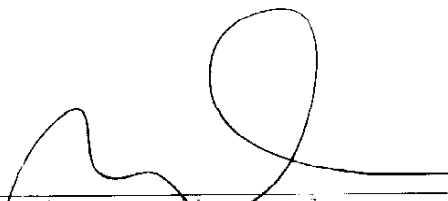
Marilyn Rankila
214 Jackson Ave SE
Wadena, MN 56482

Gerald Rankila
214 Jackson Ave SE
Wadena, MN 56482

Daniel Rothmeier, Esq.
PO Box 754
St. Cloud, MN 56302

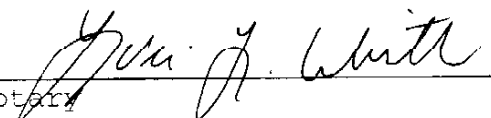
Tamara Yon, Trustee
PO Box 605
Crookston, MN 56716

U.S. Trustee
1015 U.S. Courthouse
300 South 4th St.
Minneapolis, MN 55415

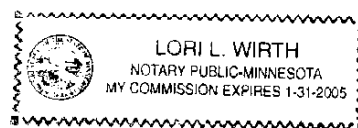


Stephanie Pilegaard

Subscribed and sworn to before me October 8, 2004.



Notary



04-29540
0436133789

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Case Number BKY 04-61116-DDO

Marilyn Rankila
Gerald Rankila,

Debtor(s)

ORDER FOR RELIEF FROM STAY

The above-entitled matter came for hearing on October 26, 2004.

THIS CAUSE coming to be heard on the Motion of Mortgage Electronic Registration Systems, Inc., a creditor in the proceeding, the Court having jurisdiction, due notice having been given, and the Court having been advised in the premises;

IT IS HEREBY ORDERED,

That the automatic stay heretofore entered in this case is modified to the extent necessary to allow Mortgage Electronic Registration Systems, Inc., its successors and/or assigns, to foreclose the mortgage on the real property commonly known as:

Lots 1 and 2, Block 1, Berg's Subdivision of part of Lots 23 and 24, Pleasant View Addition to Wadena, Wadena County, Minnesota

NOTWITHSTANDING Federal Rule of Bankruptcy Procedure 4001 (a)(3), this order is effective immediately.

Dated: _____

BY THE COURT:

Judge of Bankruptcy Court